

1 UNITED STATES DISTRICT COURT  
2 SOUTHERN DISTRICT OF NEW YORK

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3 NICHOLAS MAGALIOS,

4 Plaintiff,

5 V.

19 CV 6188 (CS)  
PLAINTIFF SUMMATION -  
6 VERDICT

7 C.O. MATHEW PERALTA,  
8 C.O. TIMOTHY BAILEY,  
9 C.O. EDWARD BLOUNT,

10 Defendants.

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11 United States Courthouse  
12 White Plains, New York  
13 April 29 & 30, 2021

14  
15 Before: THE HONORABLE CATHY SEIBEL, District Judge

16  
17 APPEARANCES

18 SIVIN & MILLER, LLP  
19 Attorneys for Plaintiff  
20 GLENN D. MILLER

21 LETITIA JAMES  
22 Attorney General for the State of New York  
23 JESSICA ACOSTA-PETTYJOHN  
24 BRUCE J. TURKLE  
25 Assistant Attorneys General

1 THE COURT: Walter received, I guess, a text that they  
2 have a verdict, not a note, so you can go get them. Needless to  
3 say, there should be no reaction to it. In case anybody didn't  
4 hear that, there should be no reaction to the verdict.

5 (Open court; Jury present)

6 THE COURT: Good afternoon, ladies and gentlemen. I  
7 understand you've reached a verdict. Let me take a look at the  
8 form.

9 (Brief pause.)

10 THE COURT: All right, Walter, if you would return  
11 this to the foreperson (handing).

12 Mr. Clark will take the verdict.

13 THE DEPUTY CLERK: Will the Foreperson please rise.  
14 Has the Jury agreed upon a verdict?

15 THE FOREPERSON: Yes.

16 THE DEPUTY CLERK: Okay, Section 1, Defendant Mathew  
17 Peralta, Subsection A, liability, excessive force, for whom you  
18 do you find on Plaintiff's claim for excessive force against  
19 Defendant Mathew Peralta?

20 THE FOREPERSON: The Plaintiff.

21 THE DEPUTY CLERK: Subsection B, liability, failure to  
22 intervene, for whom do you find on Plaintiff's claim for failure  
23 to intervene against Defendant Mathew Peralta?

24 THE FOREPERSON: Plaintiff.

25 THE DEPUTY CLERK: Section 2, Subsection A, Defendant

1 Timothy Bailey, liability, excessive force, for whom do you find  
2 on Plaintiff's claim for excessive force against Defendant  
3 Timothy Bailey?

4 THE FOREPERSON: Plaintiff.

5 THE DEPUTY CLERK: Section 2, subsection B, liability,  
6 failure to intervene, for whom do you find on Plaintiff's claim  
7 for failure to intervene against Defendant Timothy Bailey?

8 THE FOREPERSON: Find for the Plaintiff.

9 THE DEPUTY CLERK: Section 3, Defendant Edward Blount,  
10 for whom do you find on Plaintiff's claim for failure to  
11 intervene against Defendant Edward Blount?

12 THE FOREPERSON: Find for the Plaintiff.

13 THE DEPUTY CLERK: Section 4, damages, Subsection A,  
14 compensatory damages, please state the amount that will fairly  
15 and adequately compensate Plaintiff for any injury he actually  
16 sustained as a result of Defendants' conduct.

17 THE FOREPERSON: \$50,000.

18 THE DEPUTY CLERK: Section 4, Subsection B, punitive  
19 damages, number 1, Mathew Peralta, do you award punitive damages  
20 against the Defendant Mathew Peralta?

21 THE FOREPERSON: Yes.

22 THE DEPUTY CLERK: How much do you award in punitive  
23 damages against Defendant Mathew Peralta?

24 THE FOREPERSON: \$350,000.

25 THE DEPUTY CLERK: Section 2, Timothy Bailey, do you

1 award punitive damages against Defendant Timothy Bailey?

2 THE FOREPERSON: Yes.

3 THE DEPUTY CLERK: How much do you award in punitive  
4 damages against Defendant Timothy Bailey?

5 THE FOREPERSON: \$350,000.

6 THE DEPUTY CLERK: Section 3, Edward Blount, do you  
7 award punitive damages against Defendant Edward Blount?

8 THE FOREPERSON: Yes.

9 THE DEPUTY CLERK: How much do you award in punitive  
10 damages against Defendant Edward Blount?

11 THE FOREPERSON: \$250,000.

12 THE DEPUTY CLERK: You can have a seat.

13 Ladies and gentlemen of the Jury, please listen to  
14 your verdict as it stands recorded.

15 Section 1, Defendant Mathew Peralta, liability,  
16 excessive force, you voted in favor of Plaintiff.

17 Subsection B, liability, failure to intervene, as to  
18 Defendant Mathew Peralta, you found in favor of Plaintiff.

19 Section 2, Defendant Timothy Bailey, Subsection A,  
20 liability, excessive force, you find in favor of Plaintiff as to  
21 Defendant Timothy Bailey.

22 Subsection B, liability, failure to intervene, failure  
23 to intervene against Defendant Timothy Bailey, you find in favor  
24 of Plaintiff.

25 Section 3, Defendant Edward Blount, you find in favor

1 of Plaintiff for failure to intervene against Defendant Edward  
2 Blount.

3 Section 4, damages, compensatory damages, you find in  
4 the amount of \$50,000.

5 Subsection B, punitive damages, you find punitive  
6 damages against the Defendant Mathew Peralta in the amount of  
7 \$350,000.

8 Defendant Timothy Bailey, you do award Plaintiff  
9 damages against Defendant Timothy Bailey in the amount of  
10 \$350,000.

11 Subsection 3, Defendant Edward Blount, you voted yes  
12 to award punitive damages against Defendant Edward Blount in the  
13 amount of \$250,000.

14 Juror No. 1, is this your verdict?

15 JUROR NO. 1: Yes.

16 THE DEPUTY CLERK: Juror No. 2, is this your verdict?

17 JUROR NO. 2: Yes.

18 THE DEPUTY CLERK: Jour No. 3, is this your verdict?

19 JUROR NO. 3: Yes.

20 THE DEPUTY CLERK: Juror No. 4, is this your verdict?

21 JUROR NO. 4: Yes.

22 THE DEPUTY CLERK: Juror No. 5, is this your verdict?

23 JUROR NO. 5: Yes.

24 THE DEPUTY CLERK: Juror No. 6, is this your verdict?

25 JUROR NO. 6: Yes.

1 THE DEPUTY CLERK: Juror No. 7, is this your verdict?

2 JUROR NO. 7: Yes.

3 THE DEPUTY CLERK: Juror No. 8, is this your verdict?

4 JUROR NO. 8: Yeah.

5 THE DEPUTY CLERK: Jury polled unanimous, so say you  
6 all.

7 THE COURT: Thank you, ladies and gentlemen, very much  
8 for your service.

9 You're now free to talk about the case with anyone you  
10 like. One thing you might want to think about is some jurors  
11 tell me that they're happy to talk to the lawyers about how the  
12 lawyers did or what their impressions were of what happened in  
13 the courtroom, but they don't talk about what happened in the  
14 jury room. There's no rule about that; you're free to talk  
15 about anything you like. I mention that just as something for  
16 you to consider.

17 I don't know if the lawyers are going to want to talk  
18 to you afterwards, but if they approach you and you don't want  
19 to talk to them, just tell them you'd rather not and they'll  
20 leave you alone. And nobody's going to come knocking on your  
21 door after this to talk about the case. They can't do that  
22 without my permission.

23 So you can tell your friends and family about your  
24 experience if you like, and you are off the hook for jury  
25 service for a good four years I think, at least as far as the

1 federal court is concerned.

2           If you need to get going, that's fine, but if you can  
3 stay for a couple of minutes, I need to talk to the lawyers for  
4 a minute, but then I'd like to come back to the jury room and  
5 thank you in person. My feelings won't be hurt if you can't  
6 stay, but if you can, I'll be back there in a couple of minutes.

7           And with that, your service is concluded with the  
8 thanks of the Court.

9           (Open court; Jury not present)

10           THE COURT: Well, if my math is right, that's a  
11 million dollars, right? It's certainly a strong message about  
12 what the community thinks about the use of excessive force and  
13 the failure to intervene.

14           Just out of curiosity, Ms. Acosta-Pettyjohn and Mr.  
15 Turkle, what are the State's rules about who pays these punitive  
16 damages? I think I'm going to hear it's a case-by-case  
17 decision. Is that what I'm going to hear?

18           MS. ACOSTA-PETTYJOHN: Yes, your Honor. I'm not sure  
19 if there's any bright-line rule for that, your Honor.

20           THE COURT: In the history of the State of New York,  
21 has the State of New York ever not paid the punitive damages?

22           MS. ACOSTA-PETTYJOHN: Honestly, I'm not sure, your  
23 Honor. I think that --

24           THE COURT: Well, Mr. Turkle's been around a long  
25 time.

1 MR. TURKLE: Well, not necessarily for the State.

2 I do know that there have been issues most recently  
3 with regard to the indemnification for punitive damages, but  
4 ultimately, you know, it's a much higher level than my own and  
5 actually involves more of the agency.

6 THE COURT: Well, I hope you'll pass on when the time  
7 comes that this is one of the strongest cases I've seen. I  
8 think the evidence here...greatly exceeded a preponderance, and  
9 it's obvious that...indemnification defeats the purpose of  
10 punitive damages.

11 And what can you tell me will be the repercussions  
12 professionally for the Defendants?

13 MR. TURKLE: I couldn't speak to that.

14 THE COURT: Yeah, I think the Jury would be disgusted  
15 if it learned that these gentlemen were going to...suffer no  
16 professional repercussions and the State was going to pay. For  
17 what that's worth. Because they're clearly disgusted. Their  
18 punitive damages, I'm not good at math, but they exceed the  
19 actual damages by a factor of twenty, I think, if I'm  
20 multiplying correctly, which is...a lot. Anyway, I'm just  
21 editorializing.

22 Is there anything further we should do now?

23 MS. ACOSTA-PETTYJOHN: Your Honor, I would just like  
24 to submit my papers for my 50B motion.

25 THE COURT: A 50E motion? Addressed to sufficiency?



1 MS. ACOSTA-PETTYJOHN: Sorry, give me one second, your  
2 Honor.

3 THE COURT: Is that what 50E is? Let me see.

4 (Brief pause.)

5 THE COURT: Well, you can obviously submit any motion  
6 you like within the time set by the rules, and I will consider  
7 anything you have to say with an open mind. A sufficiency  
8 claim, however, heh, would be an uphill battle.

9 MS. ACOSTA-PETTYJOHN: Yeah, I believe it was a Rule  
10 59, your Honor, I apologize.

11 THE COURT: Rule 59, let's see? That's a mistake I  
12 made? In other words, you would be arguing that I made a  
13 mistake? Well, I certainly don't rule that out. But I'll wait  
14 and see...what you come up with, and of course I will review it  
15 with an open mind.

16 MS. ACOSTA-PETTYJOHN: Thank you, Your Honor.

17 MR. MILLER: Your Honor, if Counsel will be making  
18 Rule 59 motion, I would like to extend my deadline for making my  
19 Section 1988 motion until their motion is completed.

20 THE COURT: That makes sense because you'll have to  
21 spend time --

22 MR. MILLER: Yes.

23 THE COURT: -- opposing the motion.

24 So why don't we say that the fee motion under 1988  
25 will be due...thirty days after I rule on the Rule 59 motion, or

1 if there is no Rule 59 motion, thirty days after it would have  
2 been due.

3 I don't know what the law is on whether punitive  
4 damages exceeding the actual damages by this proportion can  
5 stand. Maybe this would be a good time for the parties to talk  
6 about resolving the case. If that's something that may  
7 not...may not stand, but I'll leave that up to the parties.

8 Anyway, is there anything else before we say good  
9 afternoon?

10 MR. MILLER: No, your Honor.

11 MS. ACOSTA-PETTYJOHN: No, your Honor.

12 THE COURT: All right, thank you, all.

13 (Court Exhibits 5 and 6 received in Evidence.)

14 (Proceedings concluded)

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E X H I B I T S

| Exhibit No.              | Received |
|--------------------------|----------|
| Court Exhibit 5. . . . . | .625     |
| Court Exhibit 6. . . . . | .625     |